

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND**

TERANCE ALBERT TRACY,

\*

*Plaintiff,*

\*

v.

\*

Civil Action No. 23-cv-02711-LKG

ROBERT JOSEPH RAY, *et al.*,

\*

\*

*Defendants.*

\* \* \* \* \*

**DEFENDANTS' OPPOSITION TO REQUEST FOR ENTRY OF DEFAULT**

Defendants Anne Arundel County Board of Elections (the "County Board"), City of Annapolis Board of Supervisors of Elections (the "City Board"), Robert Joseph Ray ("Mr. Ray"), and Robert Jones, Jr. ("Mr. Jones"), collectively the "Defendants", by and through their undersigned counsel, and pursuant to FED. R. CIV. P. 55, hereby oppose the Plaintiff's Request for Entry of Default (ECF 20) and state for cause to this Honorable Court:

1. This Court issued a Case Management Order which prohibits the filing of dispositive motions without first filing a Notice of Intent to File a Motion. (ECF 7).
2. After service of the summons on them, the Defendants timely filed Notices of Intent to File Motions. (ECF 15); (ECF 17).
3. The Case Management Order states in relevant part:

"The timely filing of a Notice, within the time period to file the underlying motion to which it relates, will toll the time to file such a motion until the date set by the Court at the Pre-Motion Conference." (ECF 7, p. 2).
4. The Court has not held a Pre-Motion Conference or approved a briefing schedule proposed by the Defendants. The time for the Defendants to file a motion is tolled and they are not in default for failure to defend as suggested by the Plaintiff.

5. The Defendants are ready to file motions as soon as the Court permits them to do so in accordance with the Case Management Order.

6. The Plaintiff's request for entry of default is improper and violates the Case Management Order because he did not first file a Notice of Intent to File Motion. The Plaintiff ignores that the dates in the Defendants' Notices of Intent to File Motion were merely dates *proposed* by the Defendants, and not thereafter adopted by the Court.

7. The Defendants now propose the following briefing schedule for their motions:

Defendants' motions shall be filed no later than **February 2, 2024**;

Plaintiff's responses to motions filed by defendants shall be filed no later than **March 4, 2024**; and,

Reply motions, if any, shall be filed no later than **March 18, 2024**.

8. For these reasons, the Plaintiff's request for entry of default should be denied and the Court should permit the Defendants to file motions and issue a reasonable briefing schedule to accommodate the filing.

WHEREFORE the Defendants Anne Arundel County Board of Elections, City of Annapolis Board of Supervisors of Elections, Robert Joseph Ray, and Robert Jones, Jr., respectfully request the Court enter an Order:

- A. Denying the Plaintiff's Request for Entry of Default;
- B. Permitting the Defendants to file motions in accordance with a briefing schedule;
- C. For reasonable attorney's fees and costs for having to oppose the Plaintiff's request; and
- D. For such other further relief as may be necessary and as justice may so require.

Respectfully submitted,

GREGORY J. SWAIN  
County Attorney

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Board of Supervisors of Elections*

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 26<sup>th</sup> day of January 2024, a copy of the foregoing was electronically filed with the United States District Court for the District of Maryland which will make service on all parties so entitled.

*Philip E. Culpepper*

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